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CHARLES E. MAPLE

IN THE

Supreme Court of the United States

OCTOBER TERM, 1930.

No. 202.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE, Petitioner,

v.

SALLIE H. HENRY.

ON A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

BRIEF FOR THE RESPONDENT.

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Of Counsel.

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OPINIONS BELOW.

The opinion of the Circuit Court of Appeals (R. 56) is reported in 39 F. (2d) 358. The opinion of the Board of Tax Appeals (R. 15) is reported in 13 B. T. A. 279.

JURISDICTION.

The judgment of the Circuit Court of Appeals was entered March 17, 1930 (R. 58). The petition for a writ of certiorari was filed in this Court on June 17, 1930 (R. 59). Certiorari was granted October 13, 1930.

STATEMENT.

The facts in this case are identical with those in David Burnet, Commissioner of Internal Revenue, Petitioner *v.* Samuel F. Houston, No. 199, October Term, 1930, now pending in this Court, except that the tax year here involved is 1921 and as to the following matters of detail:—

The respondent advanced $200,000 to the Real Estate Trust Co. in 1906, through her brother, Samuel F. Houston (R. 12). She received 158.61 shares of Pennsylvania Sugar Company stock in 1921 (R. 14). The amount of loss which she deducted, but which the Commissioner of Internal Revenue disallowed for the same reason as that advanced in the Houston case, was $176,840.28 (R. 46). The amount of the tax deficiency involved is $100,870.29 (R. 10).

ARGUMENT.

The question presented in this case is the same as that in David Burnet, Commissioner of Internal Revenue, Petitioner *v.* Samuel F. Houston, No. 199, October Term, 1930, now pending in this Court on a writ of certiorari to the Circuit Court of Appeals for the Third Circuit. The memorandum of the argument for Petitioner in this case cites as additional authority for his contention Article 1561 of Regulations 62 (P. 4-6 of Petitioner's brief). Respondent submits that the examples given in this article do not represent this case, and that none can be found under that or any other regulation which deprive this Respondent of her deductible loss to the extent claimed.

CONCLUSION.

For the reasons urged in the Houston case, the decision of the Circuit Court of Appeals for the Third Circuit should be affirmed.

Respectfully submitted,

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